

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re	:
	:
LEHMAN BROTHERS HOLDINGS INC., et al.,	:
	:
Debtors.	:
	:
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Chapter 11 Case No.
08-13555 (JMP)
(Jointly Administered)

**CONSENT ORDER APPROVING SETTLEMENT AGREEMENT
BETWEEN BARCLAYS CAPITAL INC. AND AMERICAN EXPRESS TRAVEL
RELATED SERVICES COMPANY, INC. AND ASSUMPTION OF AMEX CONTRACTS**

Upon the motion dated October 14, 2008 (the "Motion") of Barclays Capital Inc. ("Barclays") For Relief Concerning an American Express Contract Erroneously Posted with the Closing Date Contracts (D.I. 959) and declarations of Lindsee Granfield and Patrick Coster in support thereof (D.I. 960, 961); and upon the Debtors' Response to the Motions of Barclays Capital Inc. for Relief, Pursuant to Federal Rule of Civil Procedure 60(b) and Federal Rule of Bankruptcy Procedure 9024, Concerning Various Closing Date Contracts (D.I. 1212); and upon the Objection of American Express Travel Related Services Company, Inc. ("American Express") to Motion of Barclays Capital Inc. for Relief Concerning American Express Contracts Listed as Closing Date Contracts and Request For Interest, Fees and Expenses, and Declaration of Eugene J. Chikowski, and affidavits of Stephanie Diehl, Daniel J. Massoni and Lydia Schulz in support thereof (the "Objection") (D.I. 1216); and upon the Objection of Official Committee of Unsecured Creditors of Lehman Brothers Holdings Inc., et al. to Motions of Barclays Capital Inc. For Relief, Pursuant to Federal Rule of Civil Procedure 60(b), Concerning Certain Contracts Erroneously Posted With the Closing Date Contracts (D.I. 1672); and upon the Reply of Barclays Capital Inc. in Further Support of its Motion for Relief Concerning American Express Contracts Erroneously Posted With the Closing Date Contracts (D.I. 1747) and Declarations of Michael

Feldberg, Jason White and Leslie Bernauer in support thereof (D.I. 1750, 1751, 1753); and upon the Court's consideration of the above and the Settlement Agreement and after due deliberation thereon, and it appearing that notice is good, sufficient and appropriate under the circumstances and no further notice need be provided; and sufficient cause appearing therefor,

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS:

A. **Jurisdiction and Venue.** This Court has jurisdiction to consider the Motion and the Settlement Agreement under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases in this District is proper under 28 U.S.C. §§ 1408 and 1409.

NOW, THEREFORE, IT IS ORDERED THAT:

1. **Settlement Agreement is Approved.** The Motion has been settled pursuant to the Settlement Agreement between Barclays and American Express (the "Settlement Agreement"),¹ which is attached hereto as Exhibit A, and the terms and conditions of this Order. To the extent there is any inconsistency or conflict between this Order and the Settlement Agreement, the terms and conditions of this Order shall govern.

2. **Payment.** Barclays shall pay to American Express the aggregate amount of US \$3,900,000.00 within 15 days of this Order becoming a final order (the "Barclays Payment").

3. **Right to File A Claim.** American Express shall be authorized to file one general unsecured nonpriority claim against each of Lehman Brothers Holdings Inc. ("LBHI") and Lehman Brothers Inc. ("LBI") in an amount not to exceed US \$7,000,000 in the aggregate (the "Unsecured Claim"); *provided; however*, the rights of the Debtors, the Official Committee

¹ Capitalized terms used herein but not defined shall have the meaning ascribed to such terms in the Settlement Agreement.

of Unsecured Creditors (the “Committee”), James W. Giddens (the “Trustee”), as Trustee for the liquidation of the business of LBI, or any other party in interest to object to any claim filed by American Express on any grounds are expressly preserved other than that such claim(s) are the obligation of Barclays as a result of the assumption and assignment of (a) the Business Travel Services Agreement between American Express and LBI entered into on September 1, 2000, as amended from time to time, and (b) the Global Corporate Services Commercial Account Agreement between American Express and LBHI effective as of October 13, 2007, as amended from time to time (collectively, the “Amex Contracts”) in accordance with paragraph 7 below.

4. Reduction and Rights. American Express shall not file any claim(s) for the amount paid pursuant to the Settlement Agreement. American Express shall reduce its claim against the Debtors by the amount of the Barclays Payment.

5. Release.

A. American Express’ sole remedy with respect to any amounts owing to it under the Amex Contracts is hereby limited to (i) receipt of the Barclays Payment and (ii) filing of the Unsecured Claim. Other than the claim set forth in paragraph 3 above, American Express has forever waived and released any and all Claims (as such term is defined in section 101(5) of title of 11 of the United States Code (the “Bankruptcy Code”)), including, but not limited to, any administrative expense claims, pursuant to sections 503 or 507 of the Bankruptcy Code, it may have had or may have against any of the Debtors arising under or related to the Amex Contracts, the assumption thereof by Barclays or otherwise. Other than the claim set forth in paragraph 3 above, American Express shall not, and hereby has waived, any right to file a proof of claim for or otherwise assert or collect any administrative expenses against any of the Debtors in connection therewith.

B. Except as set forth below, American Express hereby waives and releases any and all claims, liabilities, causes of action, demands, and damages of whatever kind or nature, and whether known or unknown, against each individual former or current Corporate and/or Commercial Cardmember (as defined in the Amex Contracts) arising under or in connection with the Amex Contracts or other related agreements, irrespective of such Corporate and/or Commercial Cardmember's current employment. American Express shall cease and refrain from taking any and all attempts to collect from the Corporate and/or Commercial Cardmembers amounts owed under the Amex Contracts or other related agreements, except if the Debtors, the Committee, the Trustee or any other party in interest assert that the Unsecured Claim filed by American Express shall be reduced because the Debtors reimbursed one or more Corporate and/or Commercial Cardmembers for amounts owed to American Express. In that event, American Express reserves its right to commence an action against a Corporate and/or Commercial Cardmember to recover the amount of the payments that the Debtors, the Committee, or any other party in interest assert and demonstrate were paid to the Corporate and/or Commercial Cardmember. To the extent that American Express is provided notice that a Corporate and/or Commercial Cardmember's credit ratings have been negatively impacted, American Express shall make a good faith effort to take appropriate actions to assist the Corporate and/or Commercial Cardmember in reversing his or her negatively impacted credit ratings.

C. Barclays shall have no claim against the Debtors with respect to the Amex Contracts, the assumption thereof by Barclays or the payment of the Barclays Payment.

D. The Debtors shall have no claim against Barclays with respect to the Amex Contracts, the assumption thereof by Barclays or the filing of the Unsecured Claim by American Express.

6. Withdrawal of Motion. Within five days of this Order becoming a final order, (i) Barclays will file a notice of withdrawal of the Motion currently pending before the Court in substantially the form attached as Exhibit B to the Settlement Agreement, and (ii) Amex's requests for interest, fees and expenses contained in its Objection of October 27, 2008 shall be deemed withdrawn with prejudice.

7. Assumption of Amex Contracts. Pursuant to section 365 of the Bankruptcy Code, the Amex Contracts shall be deemed assumed and assigned to Barclays as of September 22, 2008.

8. Retention of Jurisdiction. This Court retains jurisdiction to hear and determine all matters arising from the implementation of this Order.

9. Non-material Modifications. The Settlement Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented only upon the written consent of LBHI, LBI, and the Committee without further order of the Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estates.

10. Accrual of Claim Against LBI. The Unsecured Claim as against LBI shall accrue as of the date of the entry of this consent order.

AGREED AND ACCEPTED:

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Attorneys for James W. Giddens, Trustee for the
SIPA Liquidation of Lehman Brothers Inc.

SO ORDERED

Dated: New York, New York
October 29, 2009

s/ James M. Peck

Honorable James M. Peck